



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Reserved on: 20.08.2026

Judgment Delivered on: 30.09.2026

CNR No. DLHC010214432026

+ LPA 366/2026 & CM APPL. 32655-58/2026

ARVIND GUPTA

.....Appellant

versus

LIEUTENANT GOVERNOR DELHI & ORS.Respondents

Advocates who appeared in this case

For the Appellant : Ms. Deepika V Marwaha, Senior Advocate along with Mr. Tushar Mahajan, Mr. Tanishq Sharma, Mr. Tanmay S Surana, Ms. Rudrani Bose, Advocates.

For the Respondents : Ms. Manika Tripathy, S.C. with Mr. Aman Kumar, Adv. for DDA

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present *intra court* appeal assails the order dated 10.02.2026 (“**Writ Order**”) passed in W.P.(C) 1291/2006 (“**Writ Petition**”) and order dated 08.04.2026 (“**Review Order**”) in REVIEW PET. 152/2026 (“**Review Petition**”) filed by the Appellant.



FACTUAL MATRIX

2. The brief factual matrix leading to the filing of the present Appeal is as under:

- 2.1 The Appellant's father, Late Shri Devi Dayal Gupta, was allotted property bearing No. A-329, Meera Bagh, New Delhi-110087 ("**Leasehold Property**"), admeasuring 400 sq. yards, for residential use under a perpetual sub-lease dated 15.03.1978 ("**Lease Agreement**") executed by Respondent No. 2, Delhi Development Authority ("**DDA**").
- 2.2 On 19.11.1984, the Appellant sought permission to use approximately 300 sq. ft. of the garage as Shop No. 1, which DDA granted by letter dated 19.12.1985. Three additional ground-floor shops were constructed: Shop No. 2, let for an electronics business from 01.07.1986; Shop No. 3, let as a chemist shop from 01.08.1988; and Shop No. 4, let as a paan shop from 27.09.1984.
- 2.3 On 03.10.1988, DDA directed cessation of the misuse and, by order dated 15.03.1989, determined the sub-lease ("**Re-entry Order**"). The Appellant challenged the Re-entry Order in suit No. 23/1989 filed before the learned Additional District Judge, Delhi ("**ADJ**") on 21.03.1989. On 12.07.1989, he also instituted eviction proceedings under Sections 14(1)(a) and 14(1)(k) of the Delhi Rent Control Act, 1958 ("**Rent Control Act**") against the tenants of Shop Nos. 2, 3 and 4 before the Rent Control Tribunal, Delhi.
- 2.4 During the pendency of suit No. 23/1989, the Government of India introduced a 1992 policy permitting conversion of leasehold properties below 500 sq. metres into freehold upon payment of



prescribed charges. The Ministry of Urban Development (“**Ministry**”) modified the scheme by Notification dated 25.06.1996, which DDA adopted by Circular dated 02.08.1996 (“**1996 Circular**”).

- 2.5 Pursuant thereto, on 28.08.1996, the Appellant applied to convert Shop Nos. 1 to 4 (“**Subject Areas**”) into freehold and deposited ₹71,848/- (“**Conversion Application**”).
- 2.6 By order dated 01.11.1999, the learned ADJ decreed Suit No. 23/1989. On 08.11.2005, DDA demanded ₹16,78,328.23 as misuse charges for the Subject Areas, payable within 60 days (“**Demand Notice**”).
- 2.7 The Appellant filed the Writ Petition challenging the Demand Notice and seeking recalculation under the 1996 Circular. He also challenged the Re-entry Order because the order dated 01.11.1999 appointing an arbitrator had not been complied with.
- 2.8 On 23.10.2012, the Appellant paid ₹16,78,328.23 under the Demand Notice, subject to the outcome of the Writ Petition. Owing to delayed payment, DDA, by internal order dated 11.12.2013, demanded ₹16,35,995/- as interest, which the Appellant paid subject to the Writ Petition.
- 2.9 Pursuant to an internal demand dated 19.05.2014, the Appellant paid ₹2,67,570/- towards balance conversion charges, additional ground rent, peripheral charges, composition fee and restoration charges. His total deposit with DDA was ₹35,81,893.23, subject to the Writ Petition.



- 2.10 During the pendency of the Writ Petition, DDA issued Circular dated 22.04.2014 (“**2014 Circular**”), limiting misuse charges to five years from the date of detection or filing of the conversion application, whichever was earlier.
- 2.11 Subject to outcome of the Writ Petition, the Appellant sought recalculation under the 2014 Circular. DDA thereafter fixed misuse charges at ₹9,66,148/-. Upon payment of ₹9,66,148/-, the Leasehold Property was converted to freehold on 24.06.2014. On 16.07.2015, DDA refunded ₹23,48,175/- based on the revised computation under the 2014 Circular.
- 2.12 By the Writ Order, the learned Single Judge disposed of the Writ Petition and directed payment of interest on the refunded sum of ₹23,48,175/- from the date of the Appellant’s payment until 16.07.2015.
- 2.13 The Appellant challenged the Writ Order in LPA No. 141/2026, which was dismissed as withdrawn on 19.03.2026 with liberty to seek review. The Review Petition was subsequently dismissed by the learned Single Judge with costs of ₹50,000/-.
- 2.14 Aggrieved by the Writ and Review Orders (“**Impugned Orders**”), the Appellant preferred the present Appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT

3. Learned Senior Counsel for the Appellant made the following submissions:

- 3.1. Clause 6 of the 1996 Circular (“**Clause 6**”) states that, where a property has been re-entered, the re-entry order must be revoked



on payment of restoration charges of ₹100/- per day or ₹3,000/- per annum from termination of the lease until restoration, and no damages are recoverable. The Appellant submits that the misuse charges in the Demand Notice are, in substance, damages.

- 3.2. Clause 7(ii) of the 1996 Circular (“**Clause 7(ii)**”) allows conversion where misuse is up to 25% or 500 sq. ft., whichever is less, on payment of three times the conversion fee for the misused area. As the Subject Areas measured about 421 sq. ft. out of 3,600 sq. ft., the Appellant’s case falls within this limit.
- 3.3. The Circulars dated 26.06.2001, 08.08.2001, 24.06.2003 and 11.08.2003 (“**Subsequent Circulars**”) did not modify or supersede the 1996 Circular. The 1996 Circular sets the permissible area of misuse, while the Subsequent Circulars govern the period for which misuse charges may be levied. They must therefore be read together.
- 3.4. The Circular dated 24.06.2003 only extended the conversion scheme to built-up industrial, commercial and mixed-use leases. The Circulars dated 26.06.2001 and 08.08.2001 clarified earlier modifications, while the Circular dated 11.08.2003 dealt only with the period of misuse. None altered the 1996 Circular.
- 3.5. The Appellant filed the Conversion Application under the 1996 Circular on 28.08.1996, when his rights crystallised. The policy then in force should apply, and the Subsequent Circulars cannot be applied retrospectively to impose a higher liability.
- 3.6. DDA kept the Conversion Application pending for about nine years before issuing the Demand Notice. As a public authority, it



cannot benefit from its own delay by applying a later policy that is harsher to the Appellant.

- 3.7. The misuse by the Appellant had effectively ended earlier. Misuse of Shop No. 1 stopped on 26.03.1989, and eviction proceedings against the tenants of Shop Nos. 2, 3 and 4 were filed on 12.07.1989. Their continued occupation during those proceedings could not be treated as deliberate misuse by the Appellant.
- 3.8. The Appellant filed the Review Petition bona fide under the liberty granted by this Court on 19.03.2026 in LPA No. 141/2026. The learned Single Judge dismissed it with costs of ₹50,000/- without addressing the substantial ground concerning Clause 7(ii).
- 3.9. For these reasons, the Appeal ought to be allowed.

SUBMISSIONS ON BEHALF OF DDA

4. Learned Counsel for DDA made the following submissions:
- 4.1. It is not in dispute that the Leasehold Property was allotted to the Appellant for residential purposes only. However, the Subject Areas were being used for commercial purposes. Despite issuance of the Re-entry Order and filing of the Conversion Application, the misuse of the Subject Areas continued till 2005. Since the misuse of the Subject Areas continued until 2005 and the Demand Notice was also issued in 2005, the misuse charges were required to be determined in accordance with the Circulars prevailing at the relevant time, and not solely based on the 1996 Circular.
- 4.2. The Respondents had issued a Circular dated 26.06.2001, which was modified on 08.08.2001, providing that misuse charges would be payable for the period of misuse from the date of detection of



misuse till the date of stopping of misuse or up to 28.06.1999, whichever was earlier.

- 4.3. The Circular dated 11.08.2003 further provided that misuse charges would henceforth be levied up to date or till the actual date of closure, whichever was earlier and that, in cases in which the lessor / General Power of Attorney holder had applied for conversion of the property, the misuse charges would be levied up to the date of receipt of the application for conversion along with all annexures and documents.
- 4.4. An Addendum dated 18.12.2003 was thereafter issued providing that misuse charges would be levied till 11.08.2003 or up to the date of actual closure of misuse, whichever was earlier.
- 4.5. Notification dated 24.06.2003 issued by the Ministry further provided that the Lease Administering Authorities may permit conversion of leased properties irrespective of any building violation or use violation that may exist, subject to recovery of misuse charges / damages, as applicable under the guidelines of the Lease Administering Authorities, whether earlier demanded or not.
- 4.6. In the present case, the misuse charges were levied for the respective periods taking into account the applicable policies and Circulars, including the 1996 Circular and the Subsequent Circulars. The Impugned Orders, therefore, do not warrant any interference in the present Appeal.



ANALYSIS AND FINDINGS

5. We have heard learned Counsel appearing for the parties and perused the material placed on record.

6. The principal issue arising for consideration in the present Appeal is whether the Appellant is liable to pay misuse charges in respect of the Subject Areas and, if so, whether such charges are required to be determined in accordance with Clause 7(ii).

7. It is undisputed that the Leasehold Property was allotted to the Appellant exclusively for residential purposes, whereas the Subject Areas were used for commercial purposes. It is further undisputed that DDA issued a notice dated 03.10.1988 directing the Appellant to discontinue the misuse of the Subject Areas, followed by the Re-entry Order, and that such misuse continued thereafter.

8. The Appellant contends that, since the Subject Areas measured approximately 421 sq. ft., his case falls within the limit prescribed under Clause 7(ii). The Appellant further contends that none of the Subsequent Circulars modified or superseded the 1996 Circular and, consequently, that the formula prescribed therein continued to govern his case.

9. *Per contra*, DDA contends that the Appellant cannot seek determination of the misuse charges solely on the basis of the 1996 Circular merely because the Conversion Application was submitted in that year. It was submitted on behalf of DDA that, since the misuse of the Subject Areas continued even after the filing of the Conversion Application, the Subsequent Circulars, which specifically provided for the recovery of misuse charges in such circumstances, were applicable to the present case.



10. For the purpose of adjudicating the rival submissions, it is necessary to examine the evolution, subsequent to the 1996 Circular, of the policy governing the conversion of leasehold properties in cases where misuse had been reported or continued to subsist.

11. The Circular dated 08.08.2001, which modified the Circular dated 26.06.2001, addressed cases in which past misuse or unauthorised construction had been reported, as well as cases in which such misuse continued. It provided that such cases could be processed for conversion and, insofar as the levy of misuse charges was concerned, stipulated as follows:

“2) The misuse charges would be payable for the period of misuse from the date of detection of misuse till the date of vacation of misuse or upto 28-6-99 whichever is earlier.”

12. The Circular dated 08.08.2001 also dealt with cases where applications for conversion had already been received but the leases had been determined on account of continuing misuse / unauthorised construction. In such cases, the Circular dated 08.08.2001 contemplated restoration of the lease and conversion of the property after recovery of restoration charges and misuse charges, as applicable.

13. The policy regarding levy of misuse charges was thereafter considered in a Circular dated 11.08.2003. The Circular dated 11.08.2003 dealt with the levy of misuse charges in cases where an application for conversion had already been made, and provided as under:

“a) Misuse charges shall henceforth be levied up to date or the actual date of closure, whichever is earlier. In such cases in which the lessee/GPA has applied for conversion of the property, the misuse charges shall be levied up to the date of receipt of complete



application for conversion along with all annexure and documents...”

14. An Addendum dated 18.12.2003 was thereafter issued in relation to applications for conversion which had been received prior to 11.08.2003. The Addendum dated 18.12.2003 provided as under:

“Apropos circular of even number/89 dated 11.8.03, it is added in the last line of para (a) of the said circular that “In cases in which application for conversion have been received prior to 11.8.2003, the misuse charges will be levied till 11.8.2003 or up to the date of actual closure of misuse, whichever is earlier.”

15. Thereafter, the 2014 Circular reconsidered the period for which misuse charges could be levied and restricted the same to a maximum period of five years from the date of detection of misuse. The 2014 Circular provided as under:

“(ii) Where misuse has been detected, the misuse charges may be restricted to the period of maximum of five years from the date of detection of the misuse or the date of filing of application whichever is earlier.”

16. The case of the Appellant proceeds on the basis that since Clause 7(ii) continues to remain in force, the liability to pay the misuse charges must necessarily be determined only in terms thereof.

17. Clause 7(ii) provides that where the misuse is up to 25% of the built-up area or 500 sq. ft., whichever is less, conversion to freehold may be permitted on payment of an additional conversion fee equivalent to three times the conversion fee with reference to apportioned area under misuse. It is evident that Clause 7(ii) does not deal with the period for which misuse charges are to be levied where the misuse continues.



18. The continued operation of Clause 7(ii) does not preclude the applicability of the Subsequent Circulars. Clause 7(ii) governs the conditions subject to which a property involving misuse within the prescribed area may be converted to freehold, whereas the Subsequent Circulars regulate the levy of misuse charges where such misuse continues, including in cases where an application for conversion has already been submitted. Clause 7(ii) and the Subsequent Circulars thus operate in distinct spheres, and the applicability of the latter is not affected by the continued operation of Clause 7(ii).

19. In the present case, the Conversion Application was submitted on 28.08.1996. It is not the Appellant's case that the misuse of the Subject Areas ceased upon the filing thereof. On the contrary, the material placed on record demonstrates that the misuse continued thereafter. The learned Single Judge also observed in the Writ Order that, notwithstanding the institution of eviction proceedings against the tenants occupying Shop Nos. 2, 3 and 4, the Appellant continued to receive rent in respect of those premises. This observation has not been controverted by the Appellant. The contention that the 1996 Circular alone governs the entirety of the Appellant's liability is, therefore, not borne out by the scheme regulating the conversion of properties from leasehold to freehold and the levy of misuse charges.

20. The position that emerges from the foregoing is that the mere filing of an application for conversion did not extinguish the liability to pay misuse charges where the misuse continued thereafter. Acceptance of the Appellant's contention that Clause 7(ii) alone governed the determination of misuse charges despite the continuation of misuse after submission of the Conversion Application would entail that no misuse charges could be



recovered for the subsequent period, notwithstanding the subsisting misuse. The filing of the Conversion Application could not, therefore, bring the liability towards misuse charges to an end while the misuse itself continued.

21. We also do not find any merit in the submission advanced on behalf of the Appellant that DDA seeks to derive an advantage from the delay in processing the Conversion Application. The misuse charges have not been levied merely on account of the pendency of the Conversion Application. Rather, they have been levied because the misuse of the Subject Areas continued during the relevant period notwithstanding the submission of the Conversion Application.

22. The reliance placed by the Appellant upon Clause 6 is also misplaced. Clause 6 provides that, where a property has been re-entered, the re-entry order would be revoked upon payment of the prescribed restoration charges and that no damages would be recoverable in such cases. The misuse charges levied in the present case cannot, however, be equated with the damages contemplated under Clause 6. The distinction between damages under Clause 6 and misuse charges is evident from the 1996 Circular itself. Clause 6 separately provides for restoration upon payment of restoration charges and for the non-recovery of damages, whereas Clause 7 deals with cases involving misuse of the property. The Subsequent Circulars specifically address misuse charges and prescribe the period for which such charges are recoverable. The treatment of damages and misuse charges as distinct components under the applicable Circulars does not, therefore, support the Appellant's contention that the misuse charges raised under the Demand Notice are, in substance, the damages referred to in Clause 6.



23. During the pendency of the Writ Petition, DDA issued the 2014 Circular, pursuant to which the Appellant sought recalculation of the misuse charges. DDA thereafter determined the misuse charges at ₹9,66,148 and based on the revised computation, refunded a sum of ₹23,48,175 to the Appellant. Learned Senior Counsel for the Appellant has not pressed the prayer seeking a direction that the computation under the 2014 Circular be confined to the first five years from the date of detection of misuse, rather than the last five years. We are, therefore, not required to examine the computation of ₹9,66,148 made in accordance with the 2014 Circular.

24. Having regard to the continuation of misuse of the Subject Areas after the submission of the Conversion Application, as well as the Subsequent Circulars governing the recovery of misuse charges in cases where such misuse continued even after an application for conversion had been filed, we are unable to accept the Appellant's contention that his liability to pay misuse charges in respect of the Subject Areas was required to be determined exclusively under the 1996 Circular.

25. Accordingly, we do not find any ground to interfere with the conclusion reached by the learned Single Judge in the Writ Order. Insofar as the Review Order is concerned, while we find no ground to interfere with the dismissal of the Review Petition, we are of the considered view that the costs of ₹50,000/- imposed upon the Appellant deserve to be waived. The Appellant approached the learned Single Judge by filing the Review Petition after withdrawing LPA No. 141/2026 pursuant to the liberty expressly granted by this Court to avail of the said remedy. In these circumstances, the filing of the Review Petition did not warrant the imposition of costs.



Accordingly, the costs of ₹50,000/- imposed *vide* the Review Order are hereby waived.

26. Accordingly, the present Appeal is dismissed, subject to the waiver of costs as directed hereinabove. Pending applications, if any, also stand disposed of. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

SEPTEMBER 30, 2026

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